

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

LISA GONSALVES, Mother and Personal
Representative of the Estate of Wakanda O.
Gonsalves, deceased; and LEON
GONSALVES, Father of Wakanda Gonsalves,

Plaintiffs,

vs.

PATRICK J. ADAMS, M.D. and MEDICAL
DOCTOR ASSOCIATES, L.L.C.,

Defendants.

1:14-CV-1006-CBK

**PETITION FOR APPROVAL
OF SETTLEMENT**

WE, LISA GONSALVES, individually and as Personal Representative of the Estate of Wakanda O. Gonsalves, and as mother, along with ROBERT LEON GONSALVES, as father, of Angelo Wapi Moreno, Dyami Leon Gonsalves, Kinyanku Reuben Riley Gonsalves, Niya Colleen Gonsalves and Wakanhdisa Misun Gonsalves, pursuant to SDCL 21-5-6, petition the Court for an order approving a settlement for damages arising out of the death of our daughter, Wakanda O. Gonsalves, who died on May 7, 2012, subsequent to receiving certain medical care with Patrick J. Adams, M.D., for which a claim of medical malpractice was asserted.

In support of this petition, Lisa Gonsalves states:

1. I am the Personal Representative of the Estate of Wakanda O. Gonsalves. A copy of the Order Appointing me Personal Representative and Authorizing Autopsy issued by Chief Judge B.J. Jones of the Sisseton-Wahpeton Oyate Court, Lake Traverse Indian Reservation, State of South Dakota, is attached hereto and designated as Exhibit 1.

2. Wakanda O. Gonsalves is the daughter of myself and Robert Leon Gonsalves.

She was born on [REDACTED] and was 19 years old at the time of her passing. She was a wonderful daughter and a close sister to her siblings.

3. Wakanda O. Gonsalves is survived by not only myself and Robert Leon Gonsalves, but five siblings. Those five siblings are: Angelo Wapi Moreno, born [REDACTED]; Dyami Leon Gonsalves, born [REDACTED]; Kinyanku Reuben Riley Gonsalves, born [REDACTED]; Niya Colleen Gonsalves, born [REDACTED]; and Wakanhdisa Misun Gonsalves, born [REDACTED]. The latter three siblings are still minors and live with me in my house at 2080 Kennedy Circle, Keizer, OR 97303.

4. In April, 2014, the above-entitled lawsuit was filed in the United States District Court, District of South Dakota, Northern Division. The lawsuit involves allegations of medical malpractice by Defendant Patrick J. Adams, M.D., along with negligence on the part of Defendant Medical Doctor Associates, L.L.C., in the placement and supervision of Patrick J. Adams, M.D., at the Woodrow Wilson Keeble Memorial Health Care Center in Sisseton, South Dakota. The Complaint details the specifics of the allegations made. A federal tort claim was made arising out of Wakanda O. Gonsalves' care, but the United States Government determined that Patrick J. Adams, M.D., was not an employee but was an independent contractor working at this clinic on a locum tenens placement. Defendants Patrick J. Adams, M.D., and Medical Doctor Associates, L.L.C. deny negligence as reflected in the Answer.

5. After discovery and designation of experts, a mediation was undertaken with Lon Kouri on October 19, 2015, as a result of which a settlement was reached (pending this Court's approval), in which Defendants Patrick J. Adams, M.D., and Medical Doctor Associates, L.L.C., through their insurance company, The Medical Protective Company, agreed to pay the sum of [REDACTED] together with full payment of the mediator's fees, in exchange for a full and final

settlement of the claims brought in this lawsuit and a dismissal of the lawsuit, with prejudice. A copy of that Release of All Claims is attached hereto and designated as Exhibit 2.

6. Lisa and Leon Gonsalves seek court approval of this settlement and a determination that this settlement is fair and reasonable.

7. We have been represented by Michael L. Luce of the law firm of Lynn, Jackson, Shultz & Lebrun, P.C., of Sioux Falls, South Dakota, in this matter. Our agreement as to legal fees and costs is that the attorney is to be paid legal fees of 1/3 of the amount recovered, along with costs incurred and applicable sales tax. The legal fees on the recovery of [REDACTED] (which does not include any credit for the full mediation payment by Defendants Patrick J. Adams, M.D., and Medical Doctor Associates, L.L.C.), is [REDACTED], together with costs in the sum of [REDACTED] and sales tax in the amount of [REDACTED] for a total of [REDACTED]. The largest cost incurred was that for the expert services in the sum of [REDACTED]. Thus, the net recovery to the Estate of Wakanda O. Gonsalves is \$ [REDACTED].

8. Lisa Gonsalves, as Personal Representative of the Estate of Wakanda O. Gonsalves, proposed distributing the net proceeds as follows:

- (a) Angelo Wapi Moreno: [REDACTED]
- (b) Dyami Leon Gonsalves: [REDACTED]
- (c) Kinyanku Reuben Riley Gonsalves: [REDACTED]
- (d) Niya Colleen Gonsalves: [REDACTED]
- (e) Wakanhdisa Misun Gonsalves: [REDACTED]

The youngest three siblings, Kinyanku Reuben Riley Gonsalves, Niya Colleen Gonsalves and Wakanhdisa Misun Gonsalves are minors, and those proceeds will be placed by Lisa Gonsalves in an interest-bearing account to be used for school needs or other appropriate uses until these children reach the age of majority.

In addition, [REDACTED] will be used for a non-profit, Wakanda Onawa Gonsalves

Memorial Scholarship Fund.

The remaining balance of [REDACTED] will be used as a down payment for a house where the minor children can reside.

Leon Gonsalves, as father, consents and approves of this distribution of these settlement proceeds.

WHEREFORE, Lisa Gonsalves and Robert Leon Gonsalves pray for an Order of the Court granting this Petition for Approval of Settlement, as set forth in the Release of All Claims, together with approval of the distribution of the settlement proceeds, including attorney's fees, costs and sales tax, together with the distribution of settlement proceeds to the siblings and parents as set forth herein, together with such other relief as the court deems just and proper.

Dated this 17 day of December, 2015.

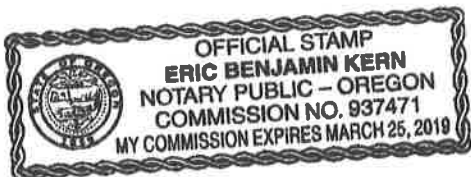


Lisa Gonsalves, Individually and as Mother and Personal Representative of the Estate of Wakanda Gonsalves

STATE OF OREGON)
 : SS
COUNTY OF Marion)

On this, the 17th day of December, 2015 before me, the undersigned officer, personally appeared Lisa Gonsalves, Individually and as Mother and Personal Representative of the Estate of Wakanda O. Gonsalves, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public, Oregon

My Commission expires: 3/25/2019

Dated this 17 day of December, 2015.

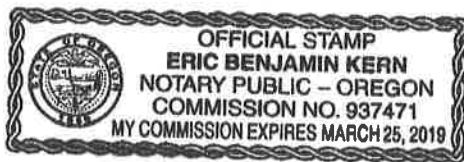


Robert Leon Gonsalves, Individually and as
Father

STATE OF OREGON)
 : SS
COUNTY OF Marion)

On this, the 17th day of December, 2015 before me, the undersigned officer, personally appeared Robert Leon Gonsalves, Individually and as Father, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public, Oregon

My Commission expires: 3/25/2019